

**CITY OF NEWARK
DELAWARE**

COUNCIL MEETING MINUTES

June 8, 2009

Those present at 7:30 pm:

Presiding: Mayor Vance A. Funk, III
District 1, Paul J. Pomeroy
District 2, Jerry Clifton
District 3, Doug Tuttle
District 4, David J. Athey
District 5, Ezra J. Temko
District 6, A. Stuart Markham

Staff Members: City Manager Kyle Sonnenberg
City Secretary Patricia M. Fogg
Assistant to the City Manager Carol S. Houck
Assistant to the City Manager Charles Zusag
Finance Director Dennis McFarland
Planning & Development Director Roy H. Lopata
Communications Supervisor Ted Ryser

1. The meeting began with a moment of silent meditation and pledge to the flag.

2. MOTION BY MR. CLIFTON, SECONDED BY MR. ATHEY: THAT THE AGENDA BE AMENDED BY ADDING ITEM 9-A-2, RESOLUTION NO. 09__: AMENDING THE NEWARK CITY CHARTER, BEING CHAPTER 152 OF VOLUME 48, LAWS OF DELAWARE, BY PROVIDING THE CITY OF NEWARK WITH THE LAWFUL AUTHORITY TO ADOPT AN ORDINANCE OR ORDINANCES IMPOSING LICENSE TAXES UPON ACTIVITIES, BUSINESSES, PROFESSIONS OR OCCUPATIONS CONDUCTED WITHIN THE LIMITS OF THE CITY OF NEWARK, AND DELETING ITEM 10-C, EXECUTIVE SESSION FROM AGENDA.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

Aye – Athey, Clifton, Funk, Markham, Pomeroy, Temko, Tuttle.
Nay – 0.

3. **2. CITY SECRETARY'S MINUTES FOR COUNCIL APPROVAL**
A. Regular Council Meeting of May 26, 2009

There being no additions or corrections to the minutes, they were approved as received.

4. **3. ITEMS NOT ON PUBLISHED AGENDA**
A. Public

(Secretary' note: At the request of Councilman Clifton, the following discussion is verbatim.)

John Kowalko, 134 North Dillwyn Road, State Representative for the 25th District: Good evening Mr. Mayor, members of Council. I come before you tonight somewhat reluctantly but purely focused on a situation that seemed to be deteriorating and an unmanageable threat to the lives of many people. Without going into too many specific details at this time, I thought it was my responsibility

to come before this body so that I might express these concerns for the record. There have been a myriad of concerns that I've had with the Newark Housing Authority that I have encountered spanning the last five years. Some rise to a very serious nature, and I am looking at them in great detail. I would not, and should not, address specifics until I have confirmation, verifiable confirmation in hand, before pursuing what could amount to charges of misconduct or incompetence or deliberate misrepresentations. But today I am appearing before you so that the record might reflect that the City Council is also responsible for three of the appointments to the Housing Authority Board as is the Governor and that authority bears a certain responsibility to be aware, and I am trying to make you aware tonight, of the situation and situations that are ongoing and could be potentially harmful. There has been a concerted effort to be less than open with details by the Newark Housing Authority that should be exposed to public scrutiny, but more importantly, efforts to ask questions, efforts to shed some light on questionable practices or business decisions by members of this Board, have been met with threats, intimidation and coercive tactics that have become more shrill, misdirecting and personal. So it is incumbent upon me to insure that the record reflects, that this record tonight reflects, that I will not tolerate abuse of individuals who are trying to do what is right by others who hope to preserve a closed door, closed (inaudible) method of doing business. So I want to tell you tonight and again without getting into specifics, I will be reviewing the Newark Housing Authority before the joint Sunset Committee next year (I am the Chair of the joint Sunset Committee). I will be seeking answers to questions of ethics, improprieties and conflict of interest accusations. I will be seeking answers to efficacy of appointments that were made by both the City and the Governor's offices and (inaudible) questions that have arisen from those appointments that regard the appearance of impropriety. So I want to have that on the record gentlemen. You know I am always open to discussion of this – you can give me a call – my cell phone is always on. I just want you to be aware that there is no complicity by any member of this body or the Governor's office, but there has to be a certain awareness because having three of the appointments under your purview, I don't want the City, as I don't want the Governor's office, to be engaged or involved in a situation that reflects on them poorly. I will be meeting with the Governor's lawyer tomorrow for parts of this approach that I am trying to make, and I say I'm reluctant because there is a multi-faceted myriad of problems, and I am not one to make accusations lightly, I want to make sure all the facts are in order, but there have been individuals, and individuals specifically in the Newark Housing Authority Board, who have suffered some severe medical problems due to the pressure of what can best be described as coercion tactics, and I won't stand for that, won't tolerate that.

Mr. Funk: I think the City appointments to that Board are really good people.

Mr. Kowalko: I understand that, but they have to do their jobs well too. And I'm not making accusations they aren't, I'm just saying we're looking at that.

Mr. Funk: I saw you are bringing it up on the Sunset. I talked to Clinton Tymes, and we put him on there for a purpose and I am confident he will be able to accomplish that.

Mr. Kowalko: Yes, and I appreciate that very much.

Mr. Clifton: Your Honor, in light of the situation and the ongoing issues that Representative Kowalko and I are familiar with, could I ask, and this is something that has not been done by this board, this body, in probably a decade now, but with the permission of the board, can I have Representative Kowalko's comments be put into the minutes verbatim. If that's ok with everybody else.

(Council members concurred.)

Mr. Kowalko: I appreciate that very much.

Mr. Athey: I actually downloaded the section, I did not know you were going to be here or I would have brought it with me for the state code that talks about the Sunset Committee, and, as I interpret it, and I don't claim to be an expert in state code but, it's for regulator boards or things that have been created and every X number of years on a rotating schedule which makes sense, has the Housing Authority ever gone through this. Let me rephrase that – in the six years I've been sitting in this chair I don't recall this happening.

Mr. Kowalko: No, it has not. Actually, I do about 400 boards so it is very extensive and what we try to do is address if a specific concern comes up about boards or board activity (and it's not always in a bad way), sometimes we need a restructuring of board, a refresher course so to speak, and that will come into play or if a board has not been reviewed for a long time or if this is inactive boards that are not meeting and not doing due diligence, and it's really a good clearinghouse opportunity because we are very focused on bi-partisanship and specifically looking at the boards and how they perform their duties and responsibilities without an accusatory focus. We are not involved in looking for problems, what we are involved in is making sure things are right, so it's a fair place to put this situation with the Newark Housing Authority except that that won't take place until next session after January because we have already finished our calendar year for this session, and our reports and bills will be coming forward. So there have been issues that have arisen in the interim that cause me to have to come here and for the record state that there are situations that I will be keeping a close eye on because until I get the Sunset Review, I don't want any individual to feel pressured unduly to the point, especially when they are trying to just proceed in a fair and honest manner as far as full disclosure and accountability. I know that you guys have made some really wonderful appointments to that board and most of the people on that board understand, I think all of them understand their responsibility and some may just have lost sight of the fact how extensive their authority and responsibility is in regard to the problems that face them, and We certainly will engage in that conversation with them.

Mr. Athey: In fairness to the Housing Authority, and again, the current Chair is in my district and he I and have spoken numerous times over the last year, many months at least, the only thing I have seen at this point actually their attorney forwarded a copy to us a simple one page letter that basically, you're going to be reviewed by the Sunset Committee.... Will there be any more detail so they can prepare, or they going to go down to Dover and have to.....

Mr. Kowalko: Yes, the Executive Director of the Sunset Committee, Debbie Puzzo, will have a series of questions and solicitation of comments and they will be asked that way ahead of time and as they fill that out then they will come and testify in person. It's not a court room or something to be feared, it's really a good mind-clearing situation.

Mr. Athey: Well I know again, I read the criteria of what they need to prepare but again if there are some specific concerns I think in fairness to them they need to be quite aware of what they are because I think there may be two sides to this coin.

Mr. Kowalko: Absolutely, that's why I'm here today. We are a full nine months away before we could be in the Sunset Committee. But I did not want to be dishonest or evasive or not tell you that I'm moving forward.

Mr. Athey: Thank you.

Mr. Temko: Representative Kowalko, I appreciate you providing leadership on this issue since I think there are process issues that need to be reviewed, and I just want to bring up, we did receive a letter from the attorney about a week ago and your letter to the Newark Housing Authority said that the purpose of sunset review was to determine if there is a public need for the agency and, if so,

determine if it is effectively performing to meet that need, and the letter we got from the lawyer said that you are apparently seeking to eliminate NHA and it sounds like you are trying to investigate if its...more the point if it is effectively performing to meet that need.....

Mr. Kowalko: Yes. It has been suggested to me by parties close to the process that maybe it's too small; we don't need Newark Housing Authority. I disagree with that 100% and since I'll be the Chair of the Sunset Committee (I'm the Vice Chair this year – we switch from Senate to House), I guarantee my thoughts will prevail and that we do need the Newark Housing Authority, it's a federally-funded agency and we can't afford to have it lost in the morass of a Wilmington Housing Authority, so you have my guarantee that one way or the other we are going to continue this and we are probably going to continue within the confines of appropriateness.

Mr. Temko: Thanks. That is what I thought your intentions were, but because there are rumors going around, I just wanted to clear this.

Mr. Kowalko: Absolutely. And the Sunset does get misread sometimes as a means to disband, but it's not, very rare we do that, matter of fact, most of the times, the only time we do sunset something out of existence if it has not met in five, ten years or if it hasn't met and has never had a quorum or hasn't met at all or if it's been replaced by another body. That's never the specific focus of the Sunset.

Mr. Markham: This is an unusual commission in my viewpoint because it's got federally-funded money and it's got half the board from the Governor and half the board from the City. Are there any other commissions that are put together this way?

Mr. Kowalko: Probably not, other than the Wilmington Housing Authority. I don't think there's too many commissions that are not solely appointed by the Governor, let alone appointed by a city and the Governor and subject to federal regulations such as the Housing Authority. It's very unique and I think therefore it's become hard to pinpoint where honest lack of communication has become known as a failure to communicate and misconduct. I think it's a fine line there, and I don't want to think that we've crossed that line.

Mr. Markham: I just wanted to point out the unusualness of that board.

Mr. Kowalko: Thank you gentlemen.

5. 3-B. UNIVERSITY

1. Administration

There were no comments forthcoming

6. 3-B-2. STUDENT BODY REPRESENTATIVE

There were no comments forthcoming.

7. 3-C. COUNCIL MEMBERS

Mr. Pomeroy thanked Representative Kowalko for taking time out of his schedule to attend the meeting.

8. Mr. Pomeroy congratulated the University of Delaware on a successful weekend that culminated in graduation.

9. Messrs. Pomeroy, Clifton, Athey and Funk offered thanks and congratulations to all who worked at Newark Nite which they thought was one of the most successful events in years.

10. Mr. Pomeroy noted a neighborhood preservation study was approved for the Center/New/Linden/Choate Street area. He thanked Messrs. Sonnenberg and Lopata, members of staff who provided the recommendations, and Council for their willingness and desire to move forward with the study.

11. Messrs. Pomeroy, Clifton and Athey offered kudos to the Police Department for a tremendous job of dealing with a myriad of recent crime and graffiti issues.

12. Mr. Clifton recognized Cpl. Jerry Bryda, Master Cpl. Dennis Aniunas and Cpl. Andy Pagnotti of the Newark Police Department who were instrumental in saving the life of University of Delaware Professor Lee Anderson in response to a 911 call.

13. Mr. Clifton reported that AAA Mid-Atlantic sent a letter acknowledging Newark Police Officers Kurt Davis, Truman Boulden, Tom Smith and Wayne Aston for their traffic control efforts in the area of South College Avenue.

14. Messrs. Athey and Temko commented that the City's recycling program would start the week of June 15th, and they have received positive response from constituents. Mr. Markham asked if the packets had been sent to residents who were DSWA customers. According to Ms. Houck, they were being distributed.

15. Mr. Funk was concerned that the individual responsible for sidewalk clean up following Newark Nite did not show up to clear Main Street Sunday morning.

16. Mr. Temko thanked Ms. Houck and the other volunteers who worked on the "U Don't Need It" program which he thought was a great success.

17. Mr. Tuttle announced the opening of the Special Olympics Summer Games at the University of Delaware on June 12th proceeded by the Law Enforcement Torch Run which would culminate in a ceremony at the Municipal Building at 4:15 p.m. He urged support of this fund raiser for Special Olympics.

18. **4. ITEMS NOT FINISHED AT PREVIOUS MEETING**
None

19. **4-B. FINANCIAL STATEMENT**
None

20. **5. RECOMMENDATIONS ON CONTRACTS & BIDS**
A. Contract 09-06 – 2009 ADA Handicap Ramp Installation Program

Ms. Houck summarized her memo to Council dated May 28, 2009 wherein she reported the contract provided for the installation of handicap ramps at 54 locations throughout the City. Seven sealed bids were received, and the lowest bidder, Paoli Services, Inc., worked satisfactorily for the City on numerous occasions. Funds to cover the work were included from Community Development Block Grant funds as well as Capital Projects. It was therefore recommended to award the contract to Paoli Services for its bid totaling \$96,171.50.

Mr. Pomeroy asked how the particular locations were prioritized, and Ms. Houck said this was done based upon order of need and the amount of pedestrian usage.

Mr. Markham asked if this cut into the backlog, and Ms. Houck said it barely put a dent in it.

MOTION BY MR. TUTTLE, SECONDED BY MR. MARKHAM: THAT CONTRACT NO. 09-06, 2009 ADA HANDICAP RAMP INSTALLATION PROGRAM, BE AWARDED TO PAOLI SERVICES, INC. FOR THE TOTAL AMOUNT OF \$96,171.50

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

Aye – Athey, Clifton, Funk, Markham, Pomeroy, Temko, Tuttle.
Nay – 0.

21. 5-B. RFP 09-02 – 911 CENTER RENOVATION PROJECT – PURCHASE OF ERGONOMIC WORK STATIONS

Ms. Houck summarized her memo to Council dated June 1, 2009 wherein she reported the RFP would allow for the research and purchase of ergonomic work stations for the 911 Center which would undergo renovations and relocation. Two sealed proposals were received and evaluated, site visits were conducted, and references were contacted. Ms. Houck suggested the high bidder be selected based on the recommendation that the job be completed on time by a company that has not experienced difficulties putting these systems in elsewhere. It was therefore recommended to authorize entering into a contract with E-Systems Group for its total bid of \$111,085.25.

MOTION BY MR. MARKHAM, SECONDED BY MR. CLIFTON: THAT RFP NO. 09-02, 911 CENTER RENOVATION PROJECT, PURCHASE OF ERGONOMIC WORK STATIONS, BE AWARDED TO E-SYSTEMS GROUP FOR A TOTAL OF \$111,085.25.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

Aye – Athey, Clifton, Funk, Markham, Pomeroy, Temko, Tuttle.
Nay – 0.

22. 6. ORDINANCES FOR SECOND READING & PUBLIC HEARING

A. Bill 09-19 An Ordinance Amending Ch. 25, Sewers, By Revising the Sewer Charges for All Customers Effective July 1, 2009

Ms. Fogg read Bill 09-19 by title only.

MOTION BY MR. MARKHAM, SECONDED BY MR POMEROY: THAT THIS BE THE SECOND READING AND FINAL PASSAGE OF BILL 09-19.

Mr. McFarland reported the proposal would increase the City's sewer rates by about 13.6% effective July 1, 2009. The rate increase was intended to track an increase of the same amount charged to the City under the wholesale contract with New Castle County for receiving and processing the City's waste water. The change would increase a typical residential bill by about \$6.00 a quarter and would be the first rate increase in three years. The impact varied depending upon the classification of the customer as detailed on the schedule in Mr. McFarland's memo of May 7th. Mr. McFarland made a correction in the third paragraph, third sentence, where the increase in the SS rate should have been 10% (not 6%).

Mr. Funk was surprised the increase was so small. Mr. McFarland said there were indications from the County that it was likely there would be another rate increase next year.

Mr. Pomeroy asked if the rate increase was across the board. Mr. McFarland said according to the County, to the greatest extent possible, the increase was consistent across all customers except where a particular contract provision would preclude that.

Mr. Temko asked what the annual impact would be on revenues collected. Mr. McFarland explained the operating costs in the sewer utility not related to the County charges were about \$324,000. County charges accounted for 90-plus percent of all the expenses, and the City would pick up about \$44,000 based on a 13% increase times the \$324,000.

Mr. Pomeroy asked how commercial customers were informed of the rate increase, and Mr. McFarland said they were notified the same way residential customers were – through the City’s website, Channel 22 and bill inserts.

Mr. Markham asked if there was anything the City could do to reduce some of the costs. Mr. McFarland said probably not as the County tracked and based their charges on the overall quality of the waste water coming through, and the City was required to use the same rates for the BOD and the SS that the County charged.

Mr. Temko questioned if there was information about water conservation on the City’s website considering that the average residential customer’s use was 60,000 gallons a year. Mr. McFarland did not think there were any specific links on the website.

The Chair opened the discussion to the public.

There being no comments forthcoming, the discussion was returned to the table.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

Aye – Athey, Clifton, Funk, Markham, Pomeroy, Temko, Tuttle.
Nay – 0.

(ORDINANCE NO. 09-20)

23. 7. PLANNING COMMISSION/DEPARTMENT RECOMMENDATIONS

None

24. 8. ORDINANCES FOR FIRST READING

None

25. 9. ITEMS SUBMITTED FOR PUBLISHED AGENDA

A. Council Members:

1. Discussion re Domestic Partner Benefits/Equal Rights Proposal

Mr. Temko referenced Mr. Akin’s memo of June 8th regarding Civil Rights Commissions. As a result, he believed options were available if Council decided to proceed with a commission whose focus would be bridging diversity.

In Mr. Zusag’s memo of June 4th listing criteria for domestic partner benefits for City employees, Mr. Temko had a concern regarding one of the documents required for establishing an employee domestic partnership. This was for a lease, deed or mortgage document indicating that both the employee and domestic partner were jointly responsible. Mr. Temko said home ownership could be a complicated area for same sex couples because in many states an owner who gave at least 50% of his/her property to another person had to pay a transfer tax on the property. That transfer tax was usually exempt for married couples, but not for same sex couples. Considering that fact, he felt there should be additional document options and noted two common ones were evidence of a joint bank account or evidence of a domestic partner having power of attorney.

Mr. Markham suggested looking at the University of Delaware's criteria which was a more extensive list.

Mr. Temko stated that Council has received reports from staff on domestic partner benefits, a non-discrimination policy and a life partner registry. He said following the public hearing, he wanted to discuss the next steps to be taken.

Karla Bell, Newark resident, understood there had been a discussion about additional expenses incurred for providing domestic partner benefits. She said all City employees were entitled to family benefits so this was already a budgeted expense. Since the City could not discriminate based on marital status, she felt the argument for additional expense was erroneous.

Barbara Hebner, Newark resident, urged Council to pass these issues which she believed had a direct impact on many families. She said five of her six children who lived in the area were employed by firms that offered domestic partner benefits, and her daughter has been with a domestic partner for 29 years. She was proud to be a Newark resident and would be even prouder if the City implemented the gender-based proposals.

Gerry Turkel, Newark resident, spoke in support of Mr. Temko's proposals. Mr. Turkel was the former president of the American Association of University Professors at the University of Delaware and was involved in contract negotiations at the University since the early 1990's. He said the University made slow progress on this issue and last year the Board of Trustees instituted a policy for same sex domestic partner benefits excluding health benefits which he said was a state issue. In 2007-2008 contract negotiations, the faculty of the American Association of University Professors was surveyed, and more than 70% supported this policy. He said this was a matter of fairness, a matter of equity and also a matter of timeliness given what has been happening across the country.

Dan Cole, University of Delaware student, member of the LGBT community and an officer of the Student Government Association and Haven, pointed out that it was easy to perceive students as second-class residents of Newark, but he emphasized the vital importance of the student population in the City. He felt the UD community strongly supported the proposals as evidenced by their domestic partner benefits and rights which he said resulted from student advocacy and action by the AAUP. He further stressed the importance of an inclusive community to help make Newark more attractive and competitive with Wilmington and Philadelphia which already offered these benefits. He was encouraged by the progress made thus far and looked forward to constructive conversation in the future.

Devon Miller-Duggan, Newark resident, said as a practicing and deeply-committed Christian, she spent many years thinking about these issues, looking at Biblical passages and reading various opinions from scholars. After a great deal of thought, study and prayer, she concluded this was not a biblical matter but was a civil matter and a matter of civil rights. She noted that family units were the mainstay of stable communities, and anything the City did to affirm stable, strong, loving and "stuck" family units would benefit the community as a whole.

Paul Baumbach, Newark resident and member of Unitarian Universalist Fellowship of Newark, agreed this was not a biblical issue, but was a moral issue. He reported 50 clergy members spanning various religions in Delaware signed a statement of support to institute full civil rights for gay, lesbian, bisexual, transgender individuals. Mr. Baumbach encouraged Council to continue to make Newark a more progressive City by supporting the proposals.

Pamela Gilpatrick Green, Newark resident, was pleased that her letter to the editor was published on May 22nd in the Newark Post. She favored Mr.

Temko's four proposals and appealed to Council members to vote yes on the proposals.

Bill Pace, Newark resident, sent a letter to Council several weeks ago on the subject and said he stood by his letter objecting to the proposals. He suggested the proposals be considered by a referendum.

Tim Spaulding, Newark resident, said he and his female partner were in support of this proposal which clearly was a civil rights issue. He said it was not long ago that their union was not recognized, and he thought it was wrong to deny domestic partnerships.

Mr. Funk referenced Mr. Temko's four original proposals first discussed at the February 9th Council meeting. In regard to offering domestic partner benefits to City employees, Mr. Funk said there probably was not any dissent from Council but this had to be discussed by the labor-management health and dental insurance committee before being addressed by Council. Mr. Sonnenberg said it was the decision of that committee to decide on the health benefit structure, and the issue would be discussed at the committee meeting on June 23rd.

Mr. Temko thanked everyone for sharing their perspective on this important issue. He explained that he brought these policy options to the table because he believed an important aspect of building community was being inclusive and welcoming as a City. Further, addressing equal rights for people who were transgender and people with sexual orientations across the spectrum was an important component of exhibiting that Newark valued all of its citizens.

Mr. Temko discussed the issue of funeral and emergency leave for City employees with domestic partners, bringing Newark into line with the personnel policies of the City of Wilmington, New Castle County and the State of Delaware. Funeral or emergency leave currently allowed employees to take time off for the following family members: spouse, children, parent, parent-in-law, legal guardian, grandparent or sibling. Although an employee would have paid leave if their spouse were to pass away, an employee in a same-sex relationship would not be given the same benefit. Mr. Temko believed extending funeral and emergency leave to employees for their life partner was consistent with the vision that Newark was a place supportive of families.

Mr. Temko planned to make a motion to change this policy at the August 10th Council meeting

The other item Mr. Temko discussed was the next step relating to his proposals. He believed that having domestic partner benefits was an issue of fairness and compensating employees equally for equal work put the City on a level playing field with New Castle County and Wilmington which was important for economic development. He also believed it was important that the City not allow discrimination within its jurisdiction and since discrimination was currently not prohibited towards gay, lesbian, bisexual and transgender individuals, it was important for the City to show initiative and take a step forward to be inclusive and welcoming. He believed that a life partner registry was an important way to provide public acknowledgement to people of their relationships and would add another economic development tool.

Mr. Funk asked if the County had a registry. Mr. Temko replied there were none, and if implemented in Newark, it would be the first in Delaware.

Mr. Temko believed the support for these proposals indicated that the City should continue moving forward with the proposals. He believed this should be done intentionally and diligently and thought the process thus far had been somewhat dysfunctional. He took responsibility for some of this and said as someone very familiar with the issues, he rushed forward without insuring that

everyone had ample time to understand the issues and what options Council had within the proposals.

He was also concerned about timing since the state legislature would consider its own non-discrimination ordinance to address sexual orientation at the Senate Insurance Committee on June 17th. Mr. Temko felt it was important to note that regardless of whether the ordinance passed through the Senate and the House, it would not protect against gender identity and expression.

Mr. Temko discussed his document regarding financial options for domestic partner benefits and clarified it was not yet completely investigated to insure there was a full understanding of the alternatives. He felt there may be other options available such as cash in lieu of benefits. With domestic partner benefits, the City would pay an additional 1% (\$26,000-\$27,000) to the insurance company and each employee would pay an increased premium of \$5-\$14 per year.

He preferred that instead of the Labor-Management Committee discussing domestic partner benefits broadly, that Council first discuss financial options and choose one to send to the Committee for their review. He did not believe there had been ample education regarding the proposals. Regarding the unions, he said this vote came when the City was still undergoing labor contract negotiations.

Mr. Temko thought the entire process has been confusing and suggested taking a step back to insure all the information needed was available for Council to digest in order to make an informed decision. He offered to contact organizations and individuals intimately familiar with these issues to gather this information.

Mr. Temko proposed a workshop in August to discuss the three proposals, policies from other communities, and options for proceeding. Following the workshop he envisioned a vote on whether or not to proceed with domestic partner benefits or to proceed by submitting a specific option to the Labor-Management Committee. He suggested postponing discussion of domestic partner benefits by the Labor-Management Committee until Council had an opportunity to further discuss this issue. Following that discussion, he proposed an initial Labor-Management Committee meeting that would be solely informational to present the domestic partner benefit option. In the next month he proposed another meeting to get input about the proposals and a vote on the option.

To summarize, Mr. Temko proposed a vote on funeral and emergency leave benefits on August 10th, a Council workshop on August 18th, and postponing domestic partner benefits from the June Labor-Management Committee agenda.

Messrs. Clifton and Athey thought August might be a difficult month to hold a workshop, but Mr. Temko disagreed.

Mr. Pomeroy thought the approach was a good way to move forward and agreed the workshop should be held in August to keep the momentum going. A workshop format allowed for more open dialog and more collective understanding of the issues.

Mr. Markham asked Mr. Temko if he planned to cover all the issues that were on the table at the August workshop. Mr. Temko said he wanted to cover the three different areas at that time. Mr. Markham said his preference was to break up the issues and not try to cram all the information on multiple topics into one session.

Mr. Funk did not see the need for a workshop and thought the issues could be handled at a Council meeting. Messrs. Clifton and Athey agreed that a workshop was a better way to discuss the issues.

Regarding the process, Mr. Athey thought the discussion was down to two issues – the domestic partner benefits and the registry. Mr. Temko said there was a third issue which was the non-discrimination policy regarding public accommodations in employment and housing. The legislature would probably address that issue in regard to sexual orientation only and, if passed, it would not cover gender identity and expression. In that case Mr. Temko said Newark could step up to include people across the gender identity spectrum within its policy. Mr. Athey questioned if Mr. Temko still wanted to proceed with that since the Solicitor had concerns about whether the Alderman's Court had the legal jurisdiction to enforce such violations.

MOTION BY MR. TEMKO, SECONDED BY MR. CLIFTON: THAT COUNCIL HAVE A WORKSHOP ON THE EQUAL RIGHTS PROPOSALS ON AUGUST 18, 2009.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

Aye – Athey, Clifton, Funk, Markham, Pomeroy, Temko, Tuttle.
Nay – 0.

MOTION BY MR. TEMKO, SECONDED BY MR. TUTTLE: THAT THE LABOR-MANAGEMENT COMMITTEE POSTPONE DISCUSSION OF DOMESTIC PARTNER BENEFITS AT THEIR JUNE MEETING UNLESS IT IS SPECIFICALLY REQUESTED BY A COMMITTEE MEMBER.

Mr. Akin said it would be helpful to know in advance the subjects he was to research for the August 18th workshop. The issue of confidentiality regarding the information he would provide was discussed. Mr. Athey thought Council should decide this issue before Mr. Akin proceeded. Mr. Funk said it was the decision of the Solicitor because he would know whether there were any legal implications that could lead to litigation. Mr. Temko suggested that someone other than the Solicitor could be the main author who could seek legal input from the Solicitor to include when needed. Mr. Clifton interjected the communication between attorney and client was one of the few remaining protected means of communication. He thought it was bad policy to waive the Solicitor's privileged information because if it was waived for one memo, the argument could be made that all the information related to a particular subject matter could be waived as well. Mr. Temko thought when discussing whether to move forward with the non-discrimination ordinance, it would be important to be able to state publicly if it was not possible to proceed based on the City's Charter from information provided by the Solicitor. Mr. Pomeroy believed there had to be a way for information to be presented other than through a privileged document from the Solicitor.

Question on the Motion was called.

MOTION PASSED. VOTE: 6 to 1.

Aye – Athey, Clifton, Funk, Pomeroy, Temko, Tuttle.
Nay – Markham.

26. **9-A-2. RESOLUTION NO. 09-__ : AMENDING THE NEWARK CITY CHARTER, BEING CHAPTER 152 OF VOLUME 48, LAWS OF DELAWARE, BY PROVIDING THE CITY OF NEWARK WITH THE LAWFUL AUTHORITY TO ADOPT AN ORDINANCE OR ORDINANCES IMPOSING LICENSE TAXES UPON ACTIVITIES, BUSINESSES, PROFESSIONS OR OCCUPATIONS CONDUCTED WITHIN THE LIMITS OF THE CITY OF NEWARK**
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Mr. Sonnenberg explained this resolution sought an amendment to the Newark Charter from the General Assembly. He said at Council's last work session, several new sources of revenue were discussed, and other cities in the state had similar language in their charters that allowed them to consider a wider range of revenue sources.

MOTION BY MR. POMEROY, SECONDED BY MR. TEMKO: THAT THE RESOLUTION BE APPROVED AS PRESENTED.

Mr. Funk said in reading the charters from other cities, Newark's was one of the worst for raising revenue.

Mr. Athey asked if there would be any action on the resolution by the legislature since there were only 12 days remaining in the session. Mr. Sonnenberg said it would be pursued in this session. Mr. Funk felt the legislators might be more sympathetic this year because of budget shortfalls.

Question on the Motion was called.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

Aye – Athey, Clifton, Funk, Markham, Pomeroy, Temko, Tuttle.

Nay – 0.

(RESOLUTION 09-L)

27. 9-B. COMMITTEES, BOARDS & COMMISSIONS

1. Appointment to Board of Building Appeals

Mr. Athey noted that Mr. Cofran had experience as a building contractor and was well-suited to serve on this Board.

MOTION BY MR. ATHEY, SECONDED BY MR. MARKHAM: THAT TOM COFRAN, 203 SUNSET ROAD, BE APPOINTED TO THE BOARD OF BUILDING APPEALS FOR A FIVE-YEAR TERM; SAID TERM TO EXPIRE IN 2014.

MOTION PASSED UNANIMOUSLY. VOTE: 7 to 0.

Aye – Athey, Clifton, Funk, Markham, Pomeroy, Temko, Tuttle.

Nay – 0.

28. 9-C. OTHERS

None

29. 10. SPECIAL DEPARTMENTAL REPORTS

A. Special Reports from Manager & Staff: None

30. 10-B. ALDERMAN'S REPORT

Mr. Markham asked if the report could reflect the number of speeding tickets issued. He said part of the reason for increasing the speeding fines was to cut down on the number of violations. However, it could not be determined from the report if the costs collected were based on fewer violations or higher fines, and he wanted to determine whether there was a downward trend.

Mr. Sonnenberg said staff would look into revising the report in order to make comparisons.

MOTION BY MR MARKHAM, SECONDED BY MR. ATHEY: THAT THE ALDERMAN'S REPORT DATED JUNE 2, 2009 BE RECEIVED.

MOTION PASSED UNANIMOUSLY: VOTE: 7 to 0.

Aye – Athey, Clifton, Funk, Markham, Pomeroy, Temko, Tuttle.
Nay – 0.

31. Meeting adjourned at 9:00 p.m.

Patricia M. Fogg, CMC
City Secretary

/av
Attachment